

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Early Termination of Probation of:

VICENTE A. ROCES, JR.,

Petitioner.

OAH No. 2011050305

**DECISION**

This matter was heard before a quorum of the Board of Vocational Nursing and Psychiatric Technicians in Oakland, California, on May 19, 2011. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Jonathan Cooper, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General.

Petitioner Vicente Rocés, Jr., represented himself.

**FACTUAL FINDINGS**

1. Petitioner Vicente A. Rocés, Jr., was issued vocational nurse license number VN 212657 on December 30, 2004. In a decision pursuant to a stipulated settlement and disciplinary order, petitioner's license was revoked effective July 2, 2008, upon his admission that in 2006 he was found in a convenience store to be under the influence of methamphetamine. The revocation was stayed and petitioner was placed on probation for five years on terms and conditions that included participation in a rehabilitation program, attendance at chemical dependency support groups, abstinence from drugs and alcohol, random biological fluid testing, and payment of cost recovery of \$5,311.00.

2. Petitioner filed his petition for early termination of probation on January 26, 2011, stating, "I feel ready for new challenges and opportunities in the field of nursing. As I have attempted to seek new opportunities I have found it difficult because of my probation status. Understandably, most employers are skeptical and appropriately hesitant to hire a nurse who is currently under probation with the board. Despite my track record and positive work recommendations from my peers and supervisors I have been turned down over and

over again. My hope is that by having completed my probation period I will have more opportunities to serve and grow as a medical provider.”

3. Petitioner has complied with the major components of his probation. He has completed two drug rehabilitation programs, is an active member in two chemical dependency support groups, sees a therapist twice a month, has complied with the drug testing program, has been clean and sober since August 6, 2006, and is current with his cost recovery payments. However, petitioner has had some trouble complying with the mandatory reporting requirements of probation. Some of his quarterly report forms were defective in that they were signed too early (before the end of the compliance period) or were submitted past the compliance deadline. During the two quarters immediately preceding this hearing he failed to submit required work performance evaluations. And, although petitioner timely completed his required educational coursework, he did not submit proof of completion until 139 days after that proof was due. Although petitioner adamantly denies submitting any documentation late, evidence presented at the hearing shows all the foregoing to be true.

4. Petitioner has worked at La Casa Mental Health Rehabilitation Center since October 2004. He is currently an LVN Supervisor and serves as charge nurse for 30 clients. He submitted letters of support from coworkers and supervisors, all of whom speak highly of his reliability, trustworthiness, skill and ability. However, petitioner has twice been disciplined at work. In 2008, he was counseled for having behaved inappropriately when, during a conference concerning a complaint that he had harassed another employee he raised his voice, paced and pointed at the employee who had made the complaint and continued to do so even though his supervisor asked him to stop. In 2009, he was suspended for one day for making a false statement to his supervisors concerning another incident in which he was alleged to have violated workplace rules.

5. Petitioner's rehabilitative efforts and his compliance with the major terms and conditions of probation have been very good. But his compliance with the reporting requirements of probation has been less than stellar. And his adamant refusal to accept that he has had reporting issues is somewhat troubling. In this proceeding, the burden is on petitioner to demonstrate that adequate cause exists to terminate his probation early. Petitioner has failed to make that case. While he is making good progress toward full rehabilitation, it would not be in the public interest to release him from probation at this time.

#### LEGAL CONCLUSIONS

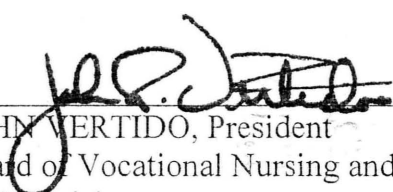
Petitioner did not establish to the satisfaction of the board that it would be in the public interest to grant early termination of his probation.

ORDER

The petition of Vicente A. Roces, Jr., for early termination of probation is denied.

DATED: June 29, 2011

EFFECTIVE DATE: July 14, 2011



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JOHN VERTIDO, President  
Board of Vocational Nursing and Psychiatric  
Technicians  
Department of Consumer Affairs